Crl. Misc. No.10094/M of 2007

Gurdeep Singh

versus

State of Punjab

Present : Mr. K.S. Ahluwalia, Sr. Advocate with
Mr. J.S. Rattu, Advocate.
for the petitioner.

Shri Gagan Pratap Singh Gill, AAG, Punjab.

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SURYA KANT, J.(ORAL)

The prayer in this petition is to release the petitioner on regular bail in FIR No.200 dated 30.10.2006, under Sections 302,148,149 IPC, registered at Police Station, Ghoman, District Gurdaspur.

The above stated FIR has been registered on the statement of Tejinder Singh son of Surjit Singh, wherein, it is alleged that the complainant's uncle (Harbhajan Singh) had purchased 60 acres of land which is situated across the river. While a part of the land falls in the revenue estate of village Marri Buchian, the remaining land falls within the revenue estate of Old Ballarrwal. The complainant's uncle (Harbhajan Singh) had a dispute in relation to possession over a part of the subject land with Balwant Singh. It is alleged that when the complainant's uncle (Harbhajan Singh) was driving a tractor in the fields, he was attacked by various persons named in the FIR, who were armed with one or the other deadly weapons. The petitioner is also named amongst those nine persons and it is alleged that he was

armed with a *Sua*.

It is further alleged that the petitioner gave "four continous blows from *Sua* in his hand" on the complainant's uncle (Harbhajan Singh), out of which one hit on his right leg and three on the upper portion of right knee.

The complainant further states that he along with one Satnam Singh and Balwinder Singh kept on raising their voice not to kill his uncle. However, in their presence only, the accused persons lifted the dead body of Harbhajan Singh, threw it in a gypsy and took the same towards the house of Balwant Singh. The complainant and his associates thereafter are stated to have run towards canal.

The petitioner was arrested on 1.11.2006 and is in custody since then.

Admittedly, the petitioner is more than 75 years of age and is stasted to be a heart patient also.

After investigation, the police moved an application dated 28.12.2006 (Annexure P-1) seeking the petitioner's discharge as an accused. In the aforesaid application, the police has stated as follows :-

> "I SI/SHO had arrested Gurdeep Singh above said accused on 1.11.2006, who is now confined in judicial lock up. Investigation of the case was done by Shri Balraj Singh Sidhu Deputy Superintendent of Police Qadian on 22.12.06, who has written that age of Gurdeep Singh above

said is about 75 years and he is heart patient, therefore, he hardly comes out of his house and participation of Gurdeep Singh in this fight hkhas not kbeen dound and he has been found to be present in his house at the time of fight. The complainant party has land dispute withGurdeep Singh's brothers Mohan Singh and Sohan Singh, therefore, in order to cause harassment to Gurdeep Singh, in case of not pursuing the case, he being falsely named in the case hasn been found and he is proved to be innocent and he has ordered for discharging Gurdeep Singh in the case."

The aforesaid application, however, was not accepted by the learned Judicial Magistrate. Thereafter, it is stated that some other investigation was carried out and in terms thereof, a charge sheet under Section 173 Cr.P.C. has been presented against the petitioner as well.

It may also be noticed that as per the allegations contained in the FIR, the petitioner had given four blows with *Sua* out of which, one hit the right leg of deceased, whereas three blows were on the upper portion of right knee. The medical evidence on record, however, suggests that there were only two injuries with *Sua* on the body of deceased and both have been found to be simple in nature.

After hearing learned counsel for the parties and without expressing any views on the merits of the case lest it should prejudice either of them and having regard to all the attending circumstances, this petition is allowed. The petitioner is directed to

be released on bail to the satisfaction of Chief Judicial Magistrate, Gurdaspur.

Disposed of.

(SURYA KANT)
JUDGE

March 19, 2007